IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

Crl.Rev.Pet.No. 93 of 2000()

CRA.260/1997 of ADDL.SESSIONS COURT, KOZHIKODE
CC.294/1995 of JUDL. MAGISTRATE OF FIRST CLASS, KUNNAMANGALAM

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REVN. PETITIONER/APPELLANT/ACCUSED:

UNNI (A) SADANANDAN, S/O.GOVINDAN NAIR,
POOLAKKAMANNIL, KOOZHAKKODE DESOM.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA, REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.P.N.SUKUMARAN

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 26/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B. KOSHY,J.

CRL.R.P.No.93 of 2000

Dated this the 26th day of September, 2007

J U D G M E N T

KOSHY,J.

Revision petitioner was charge sheeted on the allegation that, he trespassed into the House No.12/4 in Chathamangalam Panchayat on 14.8.1994 at about 6 p.m. belonging to one Leelavathi, CW2 where she was residing with her family and outraged the modesty of the daughter of CW2, Jayalakshmi and due to mental agony, she committed suicide by consuming poison. It was alleged that the accused had committed offence under Sections 451 and 354 of the Indian Penal Code. In 313 statement, accused denied the allegation but no evidence was adduced on his side. PW1 was the father of the deceased. He saw the incident. According to him, on 14.8.1994, at about 5.30 p.m. while he was cutting grass on the northern side of his property, he heard the cry of her daughter who was working in the kitchen and immediately he rushed to the kitchen and he saw accused was making scuffle

with her and on seeing him, he left the place and ran away. He tried to block him but he was not able to catch him. Deceased told him that she was plucking the jack fruit and accused came from behind and catch hold of her. He also saw milk was pilled out and jack fruit pieces were also seen lying on the ground. He went to call his son who has gone to the neighbouring house for seeing T.V. and they came. After that he heard the cry of PW2, wife stated that her daughter consumed poison. Immediately they had taken her to the hospital and she died in the hospital. According to PW1, he had stated to the doctor the reason for consuming poison. PW2 is the mother. According to her, on the alleged day of occurrence, she went to her husband's house and returned at 7 p.m. She saw her daughter lying in the bed crying and when she was asked the reason for crying, she told her that the accused came to the kitchen and outraged her modesty and she did not want to live. After some time her daughter told her that she had consumed poison. Immediately she cried and neighbours gathered and taken her to the hospital. There was nothing to discard the evidence of PW2 also. PW3 brother also gave evidence supporting the evidence of PWs.1 and 2. PW4 is the doctor who conducted

post mortem which is in tune with the prosecution case. PW7 is the doctor who issued Ext.P5 wound certificate. It is stated in the wound certificate that deceased consumed poison because of attempt to rape. It is the earliest statement regarding the incident. It is also stated that the statement was given by the mother of the deceased. Others are the official witnesses like Police Officers etc. The trial court very clearly found that accused is guilty of the offences alleged against and appellate court also agreed with the same. We see no ground to defer from the findings of facts of the courts concurrently in revisional jurisdiction.

2. Now I will consider the question of sentence. It is submitted by the counsel for the petitioner that they were in love and that is not a reason for outraging the modesty. Punishment imposed is as follows:

> "Accused is sentenced to undergo simple imprisonment for six months and to pay a fine of Rs.1,000/- (thousand) in default to undergo simple imprisonment for one month under Section 451 IPC. He is further sentenced to undergo simple imprisonment for one year and to pay a fine of Rs.1,000/- (thousand) in default to undergo simple imprisonment for one month under section 354 IPC.

Sentences shall run concurrently."

I see no ground to interfere in the sentence imposed under Section 451 of IPC. But under Section 354 of IPC sentence that can be imposed is two years imprisonment or with fine or both. He was sentenced to one year imprisonment and a fine of Rs.1,000/-. Considering the nature of evidence, I modify the same and reduce the Simple Imprisonment from one year to six months with a fine of Rs.5,000/- for the offence punishable under Section 354 IPC. If the fine amount is not paid, he has to undergo Simple imprisonment for one month under Section 354 of IPC and substantive sentence can be run concurrently. With that modification of sentence this revision petition is disposed of.

J.B.KOSHY,JUDGE

prp

J.B. KOSHY,J.

Criminal R.P.NO.93 OF 2000

O R D E R

Dated:26th September, 2007